(4)

No. 89-1836

IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

DOMINIC P. GENTILE,
Petitioner,

v.

STATE BAR OF NEVADA,
Respondent.

On Petition for a Writ of Certiorari to the Nevada Supreme Court

---

REPLY BRIEF FOR PETITIONER

MICHAEL E. TIGAR *
727 East 26th Street
Austin, Texas 78705

SAMUEL J. BUFFONE
TERRANCE G. REED
ASBILL, JUNKIN, MYERS & BUFFONE, CHARTERED
1615 New Hampshire Avenue, N.W.
Second Floor
Washington, D.C. 20009
(202) 234-9000

NEIL G. GALATZ
Las Vegas, Nevada

* Counsel of Record

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
I. THE SOLICITOR GENERAL'S AMICUS BRIEF REINFORCES THE IMPORTANCE OF THE FIRST AMENDMENT ISSUES RAISED	1
II. WHETHER THE CHALLENGED RESTRICTIONS ON SPEECH ARE VOID FOR VAGUENESS RAISES ISSUES WORTHY OF THIS COURT'S REVIEW	7
CONCLUSION	10

TABLE OF AUTHORITIES

CASES	Page
Alderman v. United States, 394 U.S. 165 (1969)	5
Bose Corp. v. Consumers Union of U.S., Inc., 466 U.S. 485 (1984)	8
Chicago Council of Lawyers v. Bauer, 522 F.2d 242 (7th Cir. 1975), *cert. denied*, 427 U.S. 912 (1976)	3, 4
Grayned v. City of Rockford, 408 U.S. 104 (1972)	7
Healey v. James, 408 U.S. 169 (1972)	6
Hirschkop v. Snead, 594 F.2d 356 (4th Cir. 1979)	4
In re Raggio, 87 Nev. 369, 487 P.2d 499 (1971)	3, 6
Kolender v. Lawson, 461 U.S. 352 (1983)	9
Matter of Keller, 213 Mont. 196, 693 P.2d 1211 (1984)	8
NAACP v. Button, 371 U.S. 415 (1963)	6, 7
Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984)	4
Shapero v. Kentucky Bar Ass'n, 486 U.S. 466 (1988)	6
Snepp v. United States, 444 U.S. 507 (1980)	4
United States v. Abel, 469 U.S. 45 (1984)	7
Zauderer v. Office of Disciplinary Counsel, 471 U.S. 626 (1985)	6

CONSTITUTION AND RULES

U.S. Const. Amendment I	*passim*
Nev. Sup. Ct. Rule 177	8

REPLY BRIEF FOR PETITIONER

Petitioner respectfully submits this brief in reply to respondent and to the Solicitor General. The Solicitor General underscores the importance of the issues in this case and establishes the need for this Court's review. His assertion that lawyer speech is subject to less constitutional protection than speech by a nonlawyer by virtue of the lawyer's special status has never been decided by this Court. The Solicitor General argues that because of this special status of attorneys, States need not establish that attorney speech poses a clear and present danger to fair trial interests before they can restrain such speech. In so arguing, the Solicitor General urges this Court to recognize a significant departure from First Amendment precedent, the propriety of which has divided federal and state courts.

While the Solicitor General concedes that federal and state courts have "employed a variety of verbal formulas" to resolve the tension between fair trial interests and free speech interests, he insists that these divergent standards somehow mask an underlying uniform view on this vital question; to the contrary, these diverse "verbal formula" reveal an as yet unresolved debate among state and federal courts.

I. THE SOLICITOR GENERAL'S AMICUS BRIEF REINFORCES THE IMPORTANCE OF THE FIRST AMENDMENT ISSUES RAISED

The amicus brief does not deride the importance of the issues raised in the petition. To the contrary, the Solicitor General argues that the State's interest in the fair administration of justice is sufficiently compelling to justify a departure from the standard of review traditionally applied to first amendment claims, the clear and present danger test. Amicus Brief, at 10. The Solicitor General

contends that petitioner's conduct was unethical and worthy of discipline. Amicus Brief, at 15.[1]

The only argument raised by the Solicitor General against the appropriateness of review is that the petitioner allegedly obtained the benefit of a clear and present danger test because, in his view, such a test is implicit in the "reasonable likelihood of prejudice test" actually employed by the Nevada Supreme Court. Amicus Brief, at 15. The record does not support such a contention.

On the heels of this effort to recast variously formulated rules of ethics and judicial standards into the allegedly uniform adoption of a clear and present danger standard, the Solicitor General presents the contradictory argument that because of the special status of attorneys, the State can regulate their speech even if it does not pose a clear and present danger to legitimate fair trial interests. Amicus Brief, at 9. The Solicitor General further contends that the "reasonable likelihood" of prejudice test is sufficiently accommodating to satisfy the First Amendment as it pertains to attorney speech. *Id.* Thus, the Solicitor General posits a distinction between these two First Amendment tests: one, the clear and present danger test, is too stringent and is not compelled by the First Amendment, while the other, the "reasonable likelihood" test, adequately protects First Amendment interests for attorneys because they fall within a distinct category of "special access" speakers.

At the same time the Solicitor General argues for a special First Amendment classification for attorneys, deserving of diminished protection because of allegedly countervailing State interests, he summarily asserts that the "variety of verbal formula" employed by courts to

[1] Of course, even if this Court were ultimately to agree with this characterization of petitioner's conduct, petitioner's challenge that the speech regulations are overbroad would require the Court to determine whether the regulations nonetheless abridge protected speech.

scrutinize restrictions on attorney speech are functionally equivalent to the clear and present danger test afforded to nonlawyer speech. (Amicus Brief, at 15).

Of course, under the Solicitor General's assumption that all of the "verbal formulas" used by courts are reducible to the clear and present danger test, no appropriate vehicle will ever appear for this Court's review of this fundamental and recurring issue: Attorneys would always allegedly be overprotected as they will be beneficiaries of a standard, the clear and present danger test, to which they are not entitled because of their alleged special status.

With all due respect, petitioner disagrees and submits that the "variety of verbal formulas" followed by federal and state courts reflect substantive, not stylistic, differences. In the first place, the record in this case simply will not support the assertion that the Nevada Supreme Court applied any standard other than the "reasonable likelihood" of prejudice test. The record demonstrates that petitioner squarely presented the constitutional issue of the adequacy of the "reasonable likelihood" test to the Nevada Supreme Court, and it was summarily rejected. Indeed, the position of the Nevada Supreme Court is understandable given its belief that lawyers have no First Amendment protections regarding comment on pending litigation. *See In re Raggio*, 87 Nev. 369, 487 P.2d 499 (1971).

Other courts have, like the Solicitor General in its amicus, acknowledged that the clear and present danger is more stringent than the "reasonable likelihood" test. For example, the difference in the substantive standards has given rise to a direct conflict in the federal circuit courts of appeals. *Compare Chicago Council of Lawyers v. Bauer*, 522 F.2d 242, 249-51 (7th Cir. 1975) (serious and imminent threat to fair trial interests required by first amendment, lesser standard in Model Code unconsti-

tutional), *cert. denied*, 427 U.S. 912 (1976), *with Hirschkop v. Snead*, 594 F.2d 356, 368 (4th Cir. 1979) (en banc) (rejecting a clear and present danger test; mere potential for prejudice sufficient regardless of its imminence). *See also Hirschkop*, 594 F.2d at 378 (Winter, J. and Butzner, J., dissenting) (clear and present danger test compelled by First Amendment; citing *Chicago Council* opinion).

Petitioner submits that the Seventh Circuit was correct in the *Chicago Council* case when it held that the clear and present danger test, described by that court as a "serious and imminent threat," was compelled by the First Amendment. *Chicago Council*, 522 F.2d at 249-50. Indeed, the Solicitor General acknowledges in its brief that those courts which have employed the "reasonable likelihood" of prejudice standard, as opposed to the "clear and present danger" test, have done so because of the "unique status of attorneys," (Amicus, at 14)—the central argument the Solicitor General raises here for the inapplicability of the traditional clear and present danger test to all attorney speech. (Amicus, at 9). Accordingly, the disagreement here is real, not imagined, and warrants plenary review by this Court.

While petitioner agrees with the Solicitor General that lawyer speech about pending cases poses special problems, this argues *for* rather than against review of this case. The fact that the Solicitor General would need to analogize to the cases of *Snepp v. United States*, 444 U.S. 507 (1980) and *Seattle Times Co. v. Rhinehart*, 467 U.S. 20 (1984) to support his argument that trial counsel deserve diminished First Amendment protection is ample testament to the lack of guidance from this Court on this critical issue. The *Snepp* case involved a dispute over the enforcement of a contract requiring a former CIA employee to give the government prepublication review rights over disclosure of potentially classified material. The *Seattle Times* case involved a libel case in

which the defendant newspaper sought to publish material obtained through civil discovery despite a trial court's protective order prohibiting such use of the material because disclosure would embarrass and oppress plaintiff. Neither of these cases involve attorney speech or a potential conflict between fair trial interests and free speech.

According to the Solicitor General, these cases stand for the general principle that persons who are afforded special access to information may be subject to more stringent State regulation than ordinary citizens regarding its disclosure, and that trial counsel fall within this category of "special access" speakers subject to diminished First Amendment protection. This Court has never addressed this issue, much less resolved it in the manner the Solicitor General suggests. While many restrictions, including the duty to preserve client confidences, or to respect protective orders,[2] may properly apply to counsel in the use of information obtained as a result of the attorney-client relationship, none of these concerns are implicated here. Nor can the Solicitor General contend that counsel here was the beneficiary of any court-enforced "special access" to information in this case: the attorney speech occurred at the outset of the case and concerned the fruits of counsel's own investigation.[3] Moreover, petitioner here was not operating under any court gag or protective order; the only restrictions on his speech were those of the disciplinary rules, rules

---

[2] *See, e.g., Alderman v. United States*, 394 U.S. 165, 185 (1969).

[3] The Solicitor General's argument that access to information through the litigation process justifies restraint on its dissemination by an attorney disregards the exclusion of Section 3(b) of Nevada Superior Court Rule 177 that "public record" information may be disclosed, a category which would ordinarily include the fruits of civil discovery.

which are aimed at procuring fair trials, not policing the discovery process.[4]

This court's decisions have repeatedly shown that "ordinary" rules of lawyer conduct must yield to First Amendment requirements. *See, e.g., NAACP v. Button*, 371 U.S. 415, 428-29 (1963); *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 646-47 (1985); *Shapero v. Kentucky Bar Ass'n*, 486 U.S. 466 (1988).

Petitioner submits that the proper resolution of the competing constitutional values is not advanced by a categorical rule such as the one used in Nevada, *see In re Raggio*, 87 Nev. 369, 487 P.2d 499 (1971), and urged by the Solicitor General here, which assigns all attorney speech to diminished First Amendment protection, but rather by a careful assessment of when the State's legitimate interest in securing a fair trial justifies a restriction on attorney speech. Moreover, the cure proposed by the Solicitor General—to have a client or spokesman for the client comment on the pending litigation (Amicus Brief, at 7)—is an invitation to the very evil, prejudicial pretrial publicity, that reasonable restrictions on attorney speech are designed to prevent. Simply as a policy matter, fostering unregulated lay commentary while silencing licensed attorneys is not the most prudent way to secure fair trials. As a constitutional matter, this solution sacrifices the First Amendment rights of counsel and client alike, as clients could not depend on counsel to advocate their interests both in and out of court.[5]

---

[4] In essence, the government contends that all information acquired by counsel while litigation is pending is subject to an implied protective order barring disclosure because of counsel's special status. This contention sweeps far too broad, and would subject counsel to disciplinary sanctions merely for disseminating information.

[5] Moreover, this Court has previously held, albeit in the different setting of speech on a college campus, that the government may not limit certain speech simply because alternative means of speech exist. *See Healey v. James*, 408 U.S. 169, 183 (1972).

II. WHETHER THE CHALLENGED RESTRICTIONS ON SPEECH ARE VOID FOR VAGUENESS RAISES ISSUES WORTHY OF THIS COURT'S REVIEW

The Solicitor General acknowledges this Court's long held view that the void for vagueness doctrine sweeps most broadly in the area of First Amendment rights, where ambiguous standards for the imposition of sanctions can chill the exercise of protected speech. Amicus Brief, at 16, *citing Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972). Here, of course, the speech which is subject to regulation concerns matters properly at the heart of public discourse: our system of justice. While it is uncontested that speech prejudicial to the administration of justice should be subject to regulation, it should equally be beyond dispute that some speech in this arena falls within the protection of the First Amendment and its vital object of promoting full discourse in a democratic society. *See NAACP v. Button*, 371 U.S. 415, 429-30 (1963) (litigation may be a form of political discourse). In this case, petitioner respectfully submits that the widely used speech regulation involved here fails to give adequate notice of what is fair and what is foul, and is impermissibly overbroad.

Initially, the Solicitor General's claim that the standard applied here, a "reasonable likelihood" of prejudice, is sufficiently precise to withstand a vagueness challenge cannot be squared with the Solicitor General's position that this standard is duplicative of the "clear and present danger" test, a test which the Solicitor General also urges should not apply to attorney speech. If, as the Solicitor General suggests, the "variety of verbal formulas" used by numerous courts reflect judicial misapprehension of this common thread discerned by the Solicitor General, then this widespread confusion on the part of the lower courts is further evidence of the lack of precision in the standard employed in this case.

Rather than confront the difficulties that evidently attend an understanding of the "reasonable likelihood" of prejudice test on its face, the Solicitor General chose to

argue that this issue was either not addressed or was waived below. These arguments are without merit.

For example, the Solicitor General attempts to sidestep the apparent contradiction between Rule 177's prohibition on speech concerning a defendant's innocence in subsection 177(2)(d) and the authorization in subsection 177(3) to discuss "without elaboration," the general nature of the defense and the general scope of the investigation by contending that the Nevada Supreme Court did not address subsection 177(2)(d). Petitioner, however, was charged and found guilty of a subsection 177(2)(d) violation by the Disciplinary Board and the Nevada Supreme Court affirmed the findings of this Board. Similarly, the Solicitor General hopes to avoid petitioner's claim that Rule 177(2)(a)'s ban on witness credibility commentary is inconsistent with Rule 177(2)(c)'s authorization of commentary about the general scope of the investigation, including witness identifications, by arguing that this contention is waived because not raised below. The record contradicts this claim.

In the proceedings below, as here, petitioner urged that Rule 177 was both vague and overbroad on its face, and the state tribunals rejected this claim. This Court has upheld a litigant's right to raise such facial challenges, *see Grayned*, 404 U.S. at 114, and has willingly afforded broad independent judicial review of First Amendment claims "in order to make sure 'that the judgment does not constitute a forbidden intrusion on the field of free expression'." *Bose Corp. v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 499 (1984) (*quoting New York Times Co. v. Sullivan*, 376 U.S. 254, 284-86 (1964)).

Especially where, as here, the Solicitor General advances for the first time a categorical rule relegating attorney speech to an inferior First Amendment status, the question of adequate notice looms large.[6] So too, the vice

[6] In *Matter of Keller*, 213 Mont. 196, 693 P.2d 1211 (1984), the Montana Supreme Court held the Model Code provision unconstitutionally vague because *courts* had not resolved what was a constitutionally sufficient standard, thus leaving counsel unguided in how to regulate their speech.

of discriminatory enforcement, the most important target of vagueness doctrine, *Kolender v. Lawson*, 461 U.S. 352, 358-59 (1983), is implicated on this record where the disputed speech concerns a suggestion of public corruption, and the timing of the discipline—after the jury verdict of acquittal—thickens the plot.

The lack of a clear standard is evident by the practices and positions of amicus in its own conduct of criminal litigation, and the attendant opportunities for discriminatory enforcement are self evident. The Department of Justice routinely issues press releases covering the issuance of indictments in cases that it believes are newsworthy. These releases often contain comments on the nature of the evidence that go beyond the language of the indictment and encompass much of the vouching and commentary complained of here. For example, in the highly charged area of federal prosecution of savings and loan fraud, where concern may well exist about the reasonable likelihood of comments prejudicing a fair trial, the Attorney General has spoken at length.

On October 25, 1990, a Department of Justice press release announced the indictment of the former owner and chief executive of a failed savings and loan. App. 1a. The Attorney General was quoted in this release as calling the defendant "one of the biggest savings and loan bandits in Texas" and cited his "free-wheeling lifestyle and fraudulent management practices" as setting the trend for "our national thrift crisis." DOJ Press Release, 90-448, "Former Western Savings Association Owner Indicted on Fraud Charges," October 25, 1990.

Similarly, in announcing the indictment of six individuals on "hate" crime charges, a Department release referred to a "skinhead" group, linked such groups to the "white supremacist movement," and noted that other groups such as the "Ku Klux Klan, the White Aryan Resistance and the Aryan Nation" were also investi-

gated.[7] DOJ press release 90-447, "Justice Department Indicts Tulsa Skinheads for 'Hate Crimes'," October 25, 1990. App. 5a. The potential for discriminatory enforcement of state restrictions on attorney speech has also been enhanced by the current position of amicus that the Supremacy Clause of the Constitution prevents state ethical rules from overriding the obligations or authority of a federal government attorney acting under federal laws.

While this Court may not wish to encourage the ever increasing practice of press comments by litigating attorneys, it must acknowledge its existence. In the atmosphere of widespread press comments by prosecutors and defense attorneys, vague standards invite discrimination. This Court should grant review to bring clarity and precision to this difficult area.

CONCLUSION

For the foregoing reasons, petitioner respectfully requests that the writ be granted.

Respectfully submitted,

MICHAEL E. TIGAR *
727 East 26th Street
Austin, Texas 78705

SAMUEL J. BUFFONE
TERRANCE G. REED
ASBILL, JUNKIN, MYERS & BUFFONE, CHARTERED
1615 New Hampshire Avenue, N.W.
Second Floor
Washington, D.C. 20009
(202) 234-9000

NEIL G. GALATZ
Las Vegas, Nevada

* Counsel of Record

---

[7] *Compare United States v. Abel*, 469 U.S. 45, 52 (1984) (membership in Aryan Brotherhood a proper subject for witness impeachment).

APPENDIX

APPENDIX

[LOGO]

DEPARTMENT OF JUSTICE

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 25, 1990

AG
202-514-2007
TDD 202-514-1888

FORMER WESTERN SAVINGS ASSOCIATION OWNER INDICTED ON FRAUD CHARGES

Attorney General Dick Thornburgh today announced that Jarrett E. Woods, Jr., of Dallas, former owner, chief executive officer, and chairman of the board of directors of Western Savings Association (Western) has been charged in a 37-count indictment with bank fraud and other violations.

Western was placed in receivership by the Federal Savings and Loan Insurance Corporation (FSLIC) on September 12, 1986. The failure of the institution is estimated to have cost more than $1 billion. Western is on the list of top 100 priority cases developed by the Justice Department and the Office of Thrift Supervision (OTS).

Among other charges, today's indictment alleges that Woods conspired to divert approximately $16 million from a $60 million loan related to the purchase and development of Houston real estate.

"The indictment of Jarrett Woods means that be have corralled one of the biggest savings and loan bandits in Texas. The free-wheeling lifestyle and fraudulent management practices that led to Western's collapse helped set the trend for our national thrift crisis," Thornburgh said.

The indictment charges Woods with conspiracy to defraud government regulators, misapplication of Western's funds, bank fraud, causing false entries to be made in

Western's books, unlawfully participating in a Western transaction, and unlawfully receiving funds in connection with a Western transaction.

Thornburgh made the announcement in a news conference this afternoon with Marvin Collins, U.S. Attorney for the Northern District of Texas, and Richard Fishkin, head of the Dallas Bank Fraud Task Force and the Dallas Regional Office of the Fraud Section of the Criminal Division.

U.S. Attorney Marvin Collins said, "Woods is the 90th defendant to be charged by the Dallas Bank Fraud Task Force since its inception in August of 1987.

"The Department of Justice has secured the conviction of 338 defendants in major savings and loan fraud prosecutions in the last two years. Seventy-six percent of those convicted and sentenced have gone to jail and more than $208 million in restitution has been ordered by the courts," Collins added.

Thornburgh also praised members of the Congress for increasing the Department's funding for savings and loan enforcement almost three-fold to $160 million in the budget appropriation for fiscal year 1991.

"The increase in resources will enable federal law enforcement authorities to continue to pursue the sophisticated fraud schemes that have become the hallmark of the nation's thrift crisis," Thornburgh said.

According to the indictment filed in U.S. District Court for the Northern District of Texas, Woods is charged with conspiracy to defraud the Federal Home Loan Bank Board (now OTS) and the FSLIC and to misuse Western funds to cure delinquencies in loans to one of Western's major borrowers.

In addition, the indictment charges that Woods misused Western funds for personal benefit including the payment of his gambling debts.

The indictment alleges that in November 1985, Woods conspired to divert approximately $16 million from a $60 million loan to Baypointe Investments, Inc. The stated purpose of the loan was for the purchase and development of property near Houston. The loan proceeds were diverted to James Reagin, one of Western's major borrowers, who was facing financial difficulties. Most of the money was used to make payments on Reagin-related loans at Western and other financial institutions. Woods allegedly caused this diversion to be concealed in order to prevent the discovery of Western's and Reagin's true financial condition.

The indictment also alleges that Woods diverted profits of about $2.26 million belonging to Western from a sale of property in Cedar Hill, Texas in order to accomplish the same purpose, i.e., making payments on Reagin-related loans. Again, Woods allegedly caused his institution's books to conceal the diversion.

Woods is also charged with using Western to generate about $558,000 that was used for his personal benefit. In one major transaction, Woods allegedly charged a secret $510,000 loan fee to a borrower which he used to make a payment on another borrower's loan.

In another transaction, Woods allegedly had a Western subsidiary pay $48,000 to a company as a commission even though the company had done nothing to earn the money. The $48,000 was allegedly a gambling debt Woods owed to the company's president.

Woods faces maximum penalties upon conviction of 185 years imprisonment and fines of $250,000 each for counts 1-33 or approximately twice the amount of his financial gain or twice the amount of loss to Western. He also faces a maximum fine of $30,000 for the remaining four counts of the indictment.

The case is being handled by the Dallas Bank Fraud Task Force, which includes attorneys from the Dallas

Regional Office of the Fraud Section, Criminal Division; attorneys from the Tax Division; Assistant U.S. Attorneys from the Northern District of Texas; examiners from the Office of Thrift Supervision; and agents of the FBI and IRS.

The continuing investigation of Western is being handled by Mark A. Adler of the Criminal Division and Assistant U. S. Attorney Susan Greenberg.

* * * *

90-448

[LOGO]

DEPARTMENT OF JUSTICE

FOR IMMEDIATE RELEASE — AG
THURSDAY, OCTOBER 25, 1990 — 202-514-3392
TDD 202-514-1888

JUSTICE DEPARTMENT INDICTS TULSA SKINHEADS FOR "HATE CRIMES"

TULSA, OK—Attorney General Dick Thornburgh and U.S. Attorney Tony Graham today announced a 13-count indictment of six members of a Tulsa Skinhead group on "hate crime" charges including violence and intimidation against Hispanic, Jewish, Black, and Arab citizens as well as other minorities.

"Not only do such 'hate groups' commit outrageous acts of violence against our citizens, but they seek to engage in a concentrated effort to tear apart the moral fabric of our society," Thornburgh said.

"Their 'hate crimes' are not just a threat to their victims, but a threat to the first civil right of all Americans —the right to be free from fear in our homes, on our streets and in our communities.

"During the past two years, the Department of Justice has stepped up its investigation of racial, religious and ethnic violence, registering 101 convictions in 20 states. Acts investigated range from the desecration of synagogues to racially-motivated murders," said Thornburgh.

When announcing the indictment, the Attorney General commended the U.S. Attorney's Office, Tulsa Chief of Police Drew Diamond, the Tulsa Police Department's Civil Rights Unit Director Dan Allen, the Federal Bureau of Investigation Special Agent in Charge for the Oklahoma City Division Bob Ricks, and Civil Rights Division attorneys Alan Tieger and Kathleen Mahoney, for their successful joint efforts.

Skinheads are organized groups of young persons adopting distinctive hair-style, garb and philosophy. Some skinhead groups are part of the white supremacist movement, but not all skinhead groups are considered racist groups.

Other organized hate groups whose conduct has been investigated by the Federal authorities include the Ku Klux Klan, the White Aryan Resistance and the Aryan Nation.

On October 19, 1990, three white supremacists were convicted of plotting to firebomb a minority discotheque in Seattle, Wa. The three, indicted and convicted in Boise, Idaho, are connected to the supremacist group Aryan Nation. They were convicted by a jury of conspiracy; knowingly making, receiving, or possessing bombs or grenades; carrying firearms in relation to a crime of violence; and crossing state lines to commit a crime.

Earlier this year in Dallas, Texas, 17 individuals associated with the Confederate Hammerskins skinhead group were charged and convicted for their involvement in civil rights conspiracies that targeted Black, Hispanic and Jewish citizens in Dallas. The sentences for the five defendants who went to trial ranged from 4¾ to 9½ years. One of these five, Michael Lewis Lawrence, is also a defendant in today's Tulsa indictment. The remaining 12 Hammerskin defendants plead guilty to charges of racial violence.

"Racial, ethnic and religious violence is not a one-victim crime, but a crime against an entire community. By spreading their hatred across our neighborhoods, public accommodations, houses of worship and even graveyards, these groups seek to make all citizens their victims and to instill fear in a wide variety of innocent Americans," said Thornburgh.

Charged with civil rights violations in the Tulsa indictment, in addition to Michael Lewis Lawrence, are Daniel Roush; Forrest Hyde; Tina Christopher (AKA

Tina Lawrence); Christopher Jones; and Gregory Kennicutt.

Between July 1988 and August 1989, the defendants are charged with joining with other associates of the Tulsa Skinhead group at various public parks and live music clubs in Tulsa, where they are alleged to have repeatedly intimidated and assaulted minority group members and persons whom they believed associated with minorities.

Allegedly, on various occasions each of the defendants drove to Club Nitro, a live music club, owned by an Arab-American, and physically attacked or harassed the minorities and "race-mixers" they believed frequented the establishment. Specific charges include: in March of 1989, the owner was struck over the head with a brick; in April, 1989, mototov cocktails were hurled into the occupied club; in June, 1989, a patron of the club was beaten and kicked into unconsciousness; and in July, 1989, patrons of the club were attacked with baseball bats.

The defendants also allegedly posted intimidating and anti-minority leaflets around the club and drove by the club shouting white supremacist slogans and racial slurs at the patrons.

When announcing the indictment, Graham stated, "Civil rights violations affecting any citizen of the Northern District of Oklahoma continue to be a high priority with the U.S. Attorney's Office. We will expend whatever resources are necessary in conjunction with the Department of Justice's Civil Rights Division to bring the perpetrators of these crimes to justice."

Count One of the Tulsa indictment charges all defendants with Conspiracy to Interfere with Civil Rights. The defendants allegedly intimidated and physically attacked minority citizens and persons associated with them when they attempted to use public accommodations in Tulsa.

Counts Two through Ten charge various defendants with interference with federally protected activities and stem from physical attacks at several parks and live music clubs in Tulsa.

Count Eleven charges defendants Lawrence and Kennicutt with use of fire or an explosive device in the commission of a felony and Count Twelve charges them with damage to a building used in interstate commerce. Count Thirteen charges both Lawrence and Kennicutt with possession of a destructive device. Both allegedly participated in an attack on Club Nitro by throwing Mototov cocktails into the club.

If convicted of all charges, the defendants face the following maximum prison terms and criminal fines: Lawrence—115 years and $2.75 million; Rousch—20 years and $500,000; Hyde—20 years and $500,000; Christopher—30 years and $750,000· Jones—40 years and one million dollars; and Kennicutt—75 years and $1.75 million.

The federal grand jury investigation has also resulted in the conviction of four other adults and five juveniles associated with the Tulsa Skinhead group. These defendants pled guilty to charges lodged against them for their involvement in similar Skinhead violence in Tulsa.

• • • •